

## Pension Benefit Guaranty Corporation

## § 4901.24

continue and the requester shall be so advised.

### Subpart C—Restrictions on Disclosure

#### § 4901.21 Restrictions in general.

(a) *Records not disclosable.* Records shall not be disclosed to the extent prohibited by—

(1) 18 U.S.C. 1905, dealing in general with commercial and financial information;

(2) Paragraph (b)(1) of FOIA, dealing in general with matters of national defense and foreign policy; or

(3) Paragraph (b)(3) of FOIA, dealing in general with matters specifically exempted from disclosure by statute, including information or documentary material submitted to the PBGC pursuant to sections 4010 and 4043 of ERISA.

(b) *Records disclosure of which may be refused.* Records need not (but may, as provided in § 4901.5(b)) be disclosed to the extent provided by—

(1) Paragraph (b)(2) of FOIA, dealing in general with internal agency personnel rules and practices;

(2) Paragraph (b)(4) of FOIA, dealing in general with trade secrets and commercial and financial information;

(3) Paragraph (b)(5) of FOIA, dealing in general with inter-agency and intra-agency memoranda and letters;

(4) Paragraph (b)(6) of FOIA, dealing in general with personnel, medical, and similar files;

(5) Paragraph (b)(7) of FOIA, dealing in general with records or information compiled for law enforcement purposes;

(6) Paragraph (b)(8) of FOIA, dealing in general with reports on financial institutions; or

(7) Paragraph (b)(9) of FOIA, dealing in general with information about wells.

#### § 4901.22 Partial disclosure.

If an otherwise disclosable record contains some material that is protected from disclosure, the record shall not for that reason be withheld from disclosure if deletion of the protected material is feasible. This principle shall be applied in particular to identifying details the disclosure of which would constitute an unwarranted invasion of personal privacy.

#### § 4901.23 Record of concern to more than one agency.

If the release of a record in the custody of the PBGC would be of concern not only to the PBGC but also to another Federal agency, the record will be made available by the PBGC only if its interest in the record is the primary interest and only after coordination with the other interested agency. If the interest of the PBGC in the record is not primary, the request will be transferred promptly to the agency having the primary interest, and the requester will be so notified.

#### § 4901.24 Special rules for trade secrets and confidential commercial or financial information submitted to the PBGC.

(a) *Application.* To the extent permitted by law, this section applies to a request for disclosure of a record that contains information that has been designated by the submitter in good faith in accordance with paragraph (b) of this section or a record that the PBGC has reason to believe contains such information, unless—

(1) Access to the information is denied;

(2) The information has been published or officially made available to the public;

(3) Disclosure of the information is required by law other than FOIA; or

(4) The designation under paragraph (b) of this section appears obviously frivolous, except that in such a case the PBGC will notify the submitter in writing of a determination to disclose the information within a reasonable time before the disclosure date (which shall be specified in the notice).

(b) *Designation by submitter.* To designate information as being subject to this section, the submitter shall, at the time of submission or by a reasonable time thereafter, assert that information being submitted is confidential business information and designate, with appropriate markings, the portion(s) of the submission to which the assertion applies. Any designation under this paragraph shall expire 10 years after the date of submission unless a longer designation period is requested and reasonable justification is provided therefor.